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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MURs 4693, 4737
Washington State Republican Party—) and 4868
Federal Account)
and Al Symington, as treasurer)

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GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 4, 1998, the Commission found reason to believe that the Washington State Republican Party--Federal Account and Al Symington, as treasurer ("Respondents") violated 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i) and entered into preprobable cause conciliation with respondents.

this Office sent Respondents a brief recommending that the Commission find probable cause to believe that Respondents had violated 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).¹ On June 14, 1999, Respondents replied to this Office's probable cause brief. Attachment 1. On July 5, 1999 and again on July 20, 1999, Respondents supplemented their responses. Attachments 2 and 3.

II. ANALYSIS

As set forth in the General Counsel's Brief, incorporated herein by reference, the Commission found that Respondents had reported, on their 1996 30 Day Post General Report, an overtransfer of \$285,316.22 from the state exempt account (a non-federal account) to the federal account. In addition, Respondents paid \$30,203.89 in 100% non-federal fundraising expenses from the federal account and then reimbursed the federal account from the non-federal account, for a total

1996 overtransfer of \$365,520.11. The Commission also found that Respondents made an overtransfer of \$248,000 from the non-federal account to the federal account during the second half of 1997. The 1996 and 1997 overtransfers totaled \$613,520.11, which Respondents eventually repaid in September 1998. See General Counsel's Brief dated May 3, 1999 at 1.

The 1996 30 Day Post General Report reflects that Respondents transferred funds, which turned out to be excessive, from the federal account to the non-federal account. Respondents "knowingly" made the transfer within the meaning of the Act. This Office, therefore, recommends that the Commission find probable cause to believe that the transfer violated the Act.⁴

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

⁴ In addition to their errors of law, Respondents' briefs contain errors of fact. For example, the first revised reply brief states that Respondents made a \$248,000 repayment in 1997. Attachment 2 at 8. In fact, that figure represents the 1997 *overtransfer*, which Respondents recorded as a loan. Respondents' second revised brief corrects that error, but incorrectly states that the Committee repaid \$126,000 during 1997 (Attachment 3 at 6), when it had actually repaid \$129,000. Moreover, in all three of its briefs, Respondents claim that, according to their 1997 filings, "there were not enough federally eligible dollars to repay the excess transfer in full." Attachment 1 at 6, Attachment 2 at 8 and Attachment 3 at 6. However, Respondents' amended 1997 Year End Report discloses \$577,068.90 in federal contributions, while the overtransfer at that time equaled \$484,520.11.

IV. RECOMMENDATIONS

1. Find probable cause to believe the Washington State Republican Party--Federal Account and Al Symington, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.5(g)(1)(i).
2. Approve the attached conciliation agreement and appropriate letter.

Date

8/6/99

Lawrence M. Noble (7/2)
Lawrence M. Noble
General Counsel

Attachments:

1. Reply Brief dated June 14, 1995
2. Letter and revised brief dated July 5, 1999
3. Revised brief dated July 20, 1999
4. Conciliation Agreement

Staff assigned:
R. Heilizer

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